

Appl. No. 10/713,369
Amdt. Dated Jul. 6, 2009
Reply to Office action of Feb. 3, 2009

Amendments to the Drawings:

The attached sheet of drawings includes changes to Fig. 9. This sheet, which includes Fig. 9, replaces the original sheet including Fig. 9. Fig. 9 has been redrawn as a computer drawn screenshot to provide improved quality and clarity. An annotated sheet is not provided because no substantive changes were made to the drawing.

Attachment: Replacement Sheet

REMARKS/ARGUMENTS

Claims 1-5, 10, 12-15, 17-20 and 22-34 are currently pending in the application. Claims 23-31 have been withdrawn. Claim 34 has been added. Claims 1-5, 10, 12-15, 17-20, 22 and 32-33 were rejected in the Office Action mailed February 3, 2009 (hereinafter referred to as "Office Action").

A petition for a two month extension and a credit card authorization for the extension and added claim are being filed herewith to extend the deadline to respond to the Office Action to July 3, 2009. Applicant respectfully submits that this response is timely filed on Monday, July 6, 2009 because the extended due date fell on a federal holiday, Friday, July 3, 2009. The Commissioner is hereby authorized to charge any additional fees, or credit any refunds, to Chalker Flores, LLP's Deposit Account No. 50-4863.

In view of the following remarks and amendments, applicant respectfully requests a timely Notice of Allowance be issued in this case.

Objections to the Drawings

The Office Action objected to Figure 9 because it "is a screenshot of insufficient quality as to allow repeated reproduction." (Office Action, page 2, lines 19-20). Applicant respectfully submits that Figure 9 on the attached sheet of drawings satisfies the requirements of 37 CFR § 1.121(d). More specifically, Figure 9 has been redrawn as a computer drawn screenshot to provide improved quality and clarity. An annotated sheet is not provided because no substantive changes were made to the drawing. Applicant respectfully requests reconsideration and withdrawal of the objection to Figure 9.

Claim Rejections under 35 U.S.C. § 112, Second Paragraph

The Office Action rejected claims 3-5 and 10 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention because "[e]ach of the listings end with an 'or.'" (Office Action, page 3, lines 19-23).

Applicant respectfully submits that the use of "or" as an alternative expression is acceptable and does not violate under 35 U.S.C. § 112, second paragraph:

Alternative expressions using "or" are acceptable, such as "wherein R is A, B, C, or D." The following phrases were each held to be acceptable and not in violation of 35 U.S.C. 112, second paragraph in *In re Gaubert*, 524 F.2d 1222, 187 USPQ 664 (CCPA 1975): "made entirely or in part of"; "at least one piece"; and **"iron, steel or any other magnetic material."**

(MPEP § 2173.05(h)(II) (emphasis added)). As a result, applicant respectfully submits that claims 3-5 and 10 are not indefinite. Applicant respectfully requests reconsideration and withdrawal of the rejection to claims 3-5 and 10 under 35 U.S.C. § 112, second paragraph.

Claim Rejections under 35 U.S.C. § 101

The Office Action rejected claims 3-5, 10, 12-15, 17-20, 22, 32 and 33 under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

Claims 3-5 and 10

The Office Action indicated that claims 3-5 and 10 recite lists that are merely a [compilation] or arrangement of data, which are considered non-functional descriptive material. (Office Action, page 4, lines 14-16). MPEP § 2106.01 states that “‘functional descriptive material’ consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of ‘data structure’ is ‘a physical or logical relationship among data elements, designed to support specific data manipulation functions. (citation omitted)).’” In contrast, nonfunctional descriptive material includes music, literary works, stored abstract ideas, mere arrangements or compilations of facts or data without any functional relationship, etc.

Claim 3 has been amended to recite specific data fields within the database. These data fields impart functionality to the database. As a result, claim 3 recites functionally descriptive material, which is statutory subject matter pursuant to MPEP § 2106.01. Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 3 under 35 U.S.C. § 101.

Claims 4 and 5 recite specific asset related items of the infrastructure being managed in claim 1. As more specifically reflected in the amended claims, the information for these asset related items are stored in the records of the database. As recited in claim 1, ***“the records are linked in a database structure to represent the assets and asset related items.”*** Moreover, each asset related item is linked in the database structure ***“(1) in a hierarchical manner*** in accordance with one or more business rules of the infrastructure ***that define how the assets and asset related items are interconnected,*** and ***(2) in a life cycle of the asset and asset related items,*** and ***(3a) how one or more persons use the assets and asset related items*** or ***(3b) how the persons use the information*** stored in the one or more data fields ***associated with the assets and asset related items.”*** As a result, the records representing the asset related items will be linked differently based on the three recited characteristics of each individual asset related item. The asset related items recited in claims 4 and 5 define structural and functional interrelationships between the database and the computer that allows the functionality of the database to be realized to manage the infrastructure. Applicant, therefore,

respectfully submits that claims 4 and 5 recited functional descriptive material” that is statutory in accordance with MPEP § 2106.01. Applicant respectfully requests reconsideration and withdrawal of the rejections of claims 4 and 5 under 35 U.S.C. § 101.

Claim 10 recites different life cycle stages for the asset or asset related items of the infrastructure being managed in claim 1. As previously described in reference to claims 4 and 5, the life cycle is one of the three characteristics that define how each record corresponding to the asset or asset related item is linked in the database. The life cycle stages recited in claim 10 define structural and functional interrelationships between the database and the computer that allows the functionality of the database to be realized to manage the infrastructure. Applicant, therefore, respectfully submits that claim 10 recites functional descriptive material” that is statutory in accordance with MPEP § 2106.01. Applicant respectfully requests reconsideration and withdrawal of the rejections of claim 10 under 35 U.S.C. § 101.

Claims 12-15, 17-19, 20, 22 and 32-33

The Office Action indicated that claims 12-15, 17-19, 20, 22 and 32-33 recite methods that are not tied to a particular machine or apparatus and do not provide any physical transformation of the underlying subject matter. (Office Action, page 4, lines 19-21 and page 5, lines 3-5).

Applicant respectfully submits that the methods recited in claims 12 and 32, as amended, and the computer program as recited in claim 20, as amended, are: (1) explicitly tied to a particular machine or apparatus – a computer; and (2) physically transform data stored within the database to a display or report provided to a user. Moreover, the specification has been amended to properly limit the scope of a computer readable medium. Applicant, therefore, respectfully submits that claims 12, 20 and 32 satisfy the requirements of 35 U.S.C. § 101.

Moreover, claims 13-15, 17-19, 22 and 33 depend from claims 12 and 32 which are allowable for the reasons stated above in reference claims 12 and 32. Applicant respectfully requests reconsideration and withdrawal of the rejections of claims 12-15, 17-19, 20, 22 and 32-33 under 35 U.S.C. § 101.

Claim Rejections under 35 U.S.C. § 103(a)

The Office Action rejected claims 1-5, 10, 12-15, 17-20, 22, and 32-33 under 35 U.S.C. § 103(a) as being unpatentable over Wilkinson, et al. (U.S. Patent Publication No. 2002/0143775) in view of Bly, et al. (U.S. Patent Publication No. 2002/0077944). Applicant respectfully submits that claims 1-5, 10, 12-15, 17-20, 22, and 32-33, as amended, are patentable over the cited references for at least the reasons described below.

Claims 1, 12, 20 and 32

Applicant respectfully submits Wilkinson discloses “[a] computer-based multi-media management system for controlling access to stored multi-media assets utilizing a database . . . in a hierarchical tree system with each node representing a category . . . so that a user can traverse the tree by moving from a first category to a second category which need neither be at the same hierarchical level in the tree or have any form of parent/sibling relationship with the first category.” (Abstract). As shown in Figure 5, the resources 115 and media objects (MOBs) can be accessed via a project/workflow view (user of the management system) or a taxonomy view (user). (Figure 5; paragraphs [0034]-[0038]). The taxonomy view uses a standard parent-child relationship structure (paragraphs [0050]-[0055]) along with association links to allow the user to navigate the database structure more easily (paragraphs [0055]-[0060]).

Applicant respectfully submits that Wilkinson manages multi-media assets and does not manage an infrastructure as recited in claims 1, 12, 20 and 32. The Office Action cites paragraph [0049], lines 1-4 as disclosing “the database containing two or more records, each record having a unique identifier and one or more fields representing attributes of an asset or asset related item within the infrastructure.” (page 6, lines 11-13). That portion of Wilkinson states:

FIG. 7 of the accompanying drawings shows an example of a taxonomy tree that can be traversed by the management system at the request of a user, for example via the browser of FIG. 4.

Figure 7 discloses a tree structure 200 having a parent node 201, child nodes 201-211 and links (212-215). Each node represents a category. (paragraph [0047]). The categories or nodes in Wilkinson are not assigned to represent assets or asset related items within an infrastructure; instead they are assigned to access the media objects in a manner that is easy and convenient for the user.

Referring to Figure 5 of Wilkinson, the database structure appears to reside in Section B (media objects 100 and resources 115). (paragraph [0036]). The project/workflow view of Section A and the taxonomy view of Section B are created as two separate interfaces to allow users to view and access the database (media objects 100 and resources 115). (paragraphs [0034]-[0035], [0037]-[0038]).

The Office Action also indicated that the taxonomy in Wilkinson is interpreted as “business rules.” (page 6, footnote 1). Applicant respectfully submits that Wilkinson’s taxonomy is not in accordance with one or more business rules of the infrastructure that define how the assets and asset related items are interconnected. Instead, the taxonomy of Wilkinson “enables the user to access the database in a particularly flexible manner.”

(paragraph [0048]). So, the rules are not based on the infrastructure; they are based how the users “wishes to provide the information to a potential customer.” (paragraph [0051]).

Moreover, the Office Action indicated that Wilkinson’s projects link the records how one or more persons use the assets and asset related items. (page 6, lines 17-18, footnote 2). Wilkinson’s projects are not required: “while a project is a common way of working there is no necessity to create one.” (paragraph [0034]). The project is “one or more bins 118 storing data appropriate to the project and . . . may be one or more reference fields 119 which provides the user with a link or links to media objects within the main data base.” (paragraph [0035]).

Finally, the Office Action indicated that “Wilkinson does not expressly disclose that the records in the database are linked to represent assets and asset related items (2) in a life cycle of the asset and asset related items.” (page 7, lines 4-6). Applicant agrees. The Office Action indicated that “Bly discloses an asset database containing records of assets with attributes such as operating life.” (page 7, lines 7-8). Applicant respectfully disagrees that Bly discloses that the records in the database are linked to represent assets and asset related items (2) in a life cycle of the asset and asset related items. The Office Action cites Figure 14 and paragraph [0146] for this proposition, but applicant is unable to find the terms “operating life” or “life cycle” used there:

FIG. 14 shows a report 274 generated by reporting and analysis module 62. In particular, each asset listed in the report has an associated plurality of parameters, such as average monthly usage hours, total maintenance cost, hourly maintenance cost, total lease cost, total operating cost, total hourly cost, percent utilization, etc. A user can invoke the reporting and analysis module 62 by selecting the Reporting button 92 from the "start" page 66 shown in FIG. 3. The user may then select the target fleet (existing or fantasy) for which the report(s) will be generated. A user can evaluate changes made to an existing fleet by generating a report for an existing fleet, configuring a simulated fleet reflecting the proposed changes, and then generating a second report.

The term “life cycle” is not used in Bly. The term “operating life” is used in paragraphs [0009] and [0108]:

Information concerning the condition, treatment, and, particularly, the maintenance history of the asset during its operating life up to the time the asset is being offered for disposal are all important in determining a sales price, but are frequently unavailable. In any event, such information is never convenient to obtain.

FIG. 10 shows a market-search parameter input form 216 generated by market search module 58 configured to allow a search of market database

36. Assets that have been tracked and managed by tracking and management system 28 over an operating life (or portion thereof) have associated therewith a substantial amount of valuable information, including maintenance history data.

Although Bly recognizes the importance of the maintenance history of an asset during its operating life, Bly does not disclose, teach or suggest that the records in the database are linked to represent assets and asset related item (2) in a life cycle of the asset and asset related item as recited in claims 1, 12, 20 and 32. As a result, applicant respectfully submits that Bly does not cure the stated deficiencies of Wilkinson. Moreover, applicant respectfully submits that one skilled in the art would not modify the multi-media management system of Wilkinson to link the media objects to represent a life cycle of the media objects. Applicant respectfully submits that media objects do not have an "operating life" as that term is used in Bly with respect to moveable industrial equipment.

For at least the reasons stated above, applicant respectfully submits that Wilkinson and Bly, either alone or in combination, do not disclose, teach or suggest every element recited in claims 1, 12, 20 and 32. Accordingly, applicant respectfully submits that claims 1, 12, 20 and 32 are not obvious over Wilkinson in view of Bly and are, therefore, allowable under 35 U.S.C. § 103(a). Applicant respectfully requests that the rejection of claims 1, 12, 20 and 32 be withdrawn.

Claims 2, 13-15, 17-19, 22 and 33

Applicant respectfully submits that claims 2, 13-15, 17-19, 22 and 33 depend from claims 1, 12, 20 and 32 which are allowable for the reasons stated above, and further distinguish over the cited references. Claims 2, 13-15, 17-19, 22 and 33 are, therefore, allowable under 35 U.S.C. § 103(a). Accordingly, applicant respectfully requests that any rejection of claims 2, 13-15, 17-19, 22 and 33 be withdrawn.

Claims 3-5 and 10

The Office Action rejected claims 3-5 and 10 based on their dependency on claim 1 and the Section 101 rejections. As a result, applicant respectfully submits that claims 3-5 and 10 are not obvious over the cited references. Moreover, applicant respectfully submits that claims 3-5 and 10 depend from claim 1 which is allowable for the reasons stated above, and further distinguishes over the cited references. Claims 3-5 and 10 are, therefore, allowable under 35 U.S.C. § 103(a). Accordingly, applicant respectfully requests that any rejection of claims 3-5 and 10 be withdrawn.

Claim 34

Applicant respectfully submits that claim 34 is allowable for the reasons stated above in reference to claims 1, 12, 20 and 32. In addition, applicant respectfully submits that the cited reference do not disclose, teach or suggest the following elements:

wherein the one or more data fields representing attributes of the asset or asset related item include an asset name data field, a manufacturer name data field, a make data field, a model number data field, a serial number data field, a description data field, a purchase date data field, an expiration date data field, a purchase cost data field or an operating characteristic data field;

wherein the data records for the asset related items store data corresponding to places, connections, contracts, documentation or financials;

wherein (a) the places include physical sites or locations, (b) the connections include electrical connections, physical connections, logical connections, communication links, interfaces, junctions, circuits or patch panels, (c) the contracts include leases, title documents, maintenance contracts, license agreements, clients contracts, resource allocation or service-level agreements, (d) the documentation includes support documents, maintenance schedules, procedural documentation, operational documentation or policy documentation, and (e) the financials include purchase records, repair records, warranties, operational costs, charge-backs or down-time costs; and

wherein the life cycle of the asset and asset related items comprises procurement, implementation, usage, modification, change, decommission, disposal or salvage information about the asset or asset related item.

Claim 34 is, therefore, allowable under 35 U.S.C. § 103(a). Accordingly, applicant respectfully requests that any rejection of claim 34 be withdrawn.

Conclusion


For the reasons set forth above, applicant respectfully requests reconsideration by the examiner and withdrawal of the rejections. Applicant submits that claims 1-5, 10, 12-15, 17-20 and 22-34 as amended, are fully patentable. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

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If the examiner has any questions or comments, or if further clarification is required, it is requested that the examiner contact the undersigned at the telephone number listed below.

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Respectfully submitted,
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